

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

VICKIE ANN SWARTZBAUGH, et al.,

Plaintiff,

Case No. C-3-05-131

-vs-

District Judge Thomas M. Rose

JUDGE WALTER HERBERT RICE, et al.,

Defendants

**ENTRY AND ORDER OVERRULING PLAINTIFF'S OBJECTIONS (DOC. #6)
ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION (DOC. #3)
DISMISSING SAID COMPLAINT AND DENYING PLAINTIFF'S RIGHT TO APPEAL
IN FORMA PAUPERIS**

This matter is before the Court pursuant to the Report and Recommendation (Doc. #3) issued by Magistrate Judge Sharon L. Ovington on April 14, 2005 and the Objections (Doc. #6) to that Report and Recommendation filed by the Plaintiff on April 27, 2005. Pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio, Western Division, this matter was referred to Magistrate Ovington due to the fact that Plaintiff is representing herself pro se.

Pursuant to such reference, Magistrate Judge Ovington reviewed the pleadings, specifically Plaintiff's Complaint (Doc. #2) filed in this Court on April 8, 2005 and issued her Report and Recommendation (Doc. #3) recommending to this Court that said complaint be dismissed and pursuant to 28 U.S.C. Section 1915(a) that an appeal of such order would not be taken in good faith and leave to appeal in forma pauperis should be denied. Plaintiff filed an objection (Doc. #6) to said Report and Recommendation entitling that pleading "Objection to Prejudicial Dismissal".

The Court has reviewed the comprehensive findings of Magistrate Judge Ovington and considered de novo all of the filings in this matter.

Upon consideration of that review, the Court does determine that the Magistrate Judge's Report and Recommendation (Doc. #3) is well-founded and should be adopted in its entirety.

Plaintiff's Objections (Doc. #6) are **OVERRULED**.

Specifically, the Court does concur that Plaintiff's Complaint (Doc. #2) is frivolous in that it fails to contain any allegation sufficient to trigger a federal claim over which this Court has subject matter jurisdiction and that it fails to state a claim upon which relief may be granted or that seeks monetary relief from a defendant who is immuned from such relief in this Court. The Court further agrees that said Complaint contains, at best, conclusory statements and that even in light of a liberal construction fails to reveal a violation of a federal law or right.

Therefore, **IT IS ORDERED** and **ADJUDGED** that Plaintiff's Objections (Doc. #6) are **OVERRULED**, the Report and Recommendation (Doc. #3) of Magistrate Judge Ovington is **ADOPTED** in its entirety and that Plaintiff's Complaint is **DISMISSED**. The Court would further certify pursuant to 28 U.S.C. Section 1915(a) that for the foregoing reasons, an appeal of this order would not be taken in good faith and therefore **DENIES** Plaintiff's leave of appeal in forma pauperis.

It is **ORDERED** that this case be terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division at Dayton.

IT IS SO ORDERED.

May 9, 2005

s/**THOMAS M. ROSE**

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE